

Article XV: BOARD OF ZONING APPEALS

1500 Establishment of Board of Zoning Appeals

A Board of Zoning Appeals is hereby established. Said Board shall consist of seven (7) members, who shall be citizens of the City of Georgetown and shall be appointed by the Georgetown City Council for overlapping terms of three years. Initial appointment shall be as follows: two members for a term of three years, two members for a term of two years, and three members for a term of one year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board. Members cannot hold any other public office or position in the City. A member may serve a maximum of two consecutive terms. If there is no new citizen to volunteer for the Board, a current Board member may continue to serve, but must be reappointed by Council for another term. A member can be removed for just cause.

1501 Proceedings of the Board of Zoning Appeals

The Board of Zoning Appeals shall elect a chairman and vice chairmen from its members who shall serve for one year or until reelected or until their successors are elected. The Board shall appoint a secretary, who may be a City employee, or a member of the Planning Commission. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and with the SC Code 1994, Sections 6-29-310 through 6-29-1200. All meetings of the Board shall be open to the public.

1502 Decisions of the Board of Zoning Appeals

The concurring vote of a simple majority of members presents shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variance of this Ordinance or to effect any variation of this Ordinance. The concurring vote of a simple majority of the members present shall be sufficient to carry any motion to deny a variance request from the applicant, or to effect administrative rulings such as adjournment, approval of minutes, setting of special meetings, and the like. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. On all appeals, applications, and other matters brought before the Board of Zoning Appeals, the Board shall inform in writing all the parties involved of its decisions and the reasons therefore. (Ord. of 12-18-03)

1503 Appeals, Hearing, and Notice

Appeals to the Board may be taken by any person aggrieved, or by any officer, department, or board or bureau of the City. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Zoning Appeals notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

The Board shall fix a reasonable time for the hearing of the appeal or other matters referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appeal in person or by agent or by attorney. Public notice of all meetings of the Board shall be provided by publication in a newspaper of general circulation in the City at least fifteen days in advance of the meetings. In cases involving variances, conspicuous notice shall be posted on or adjacent

to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property.

1504 Powers

The Board of Zoning Appeals has the following powers:

1504.1 To hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance;

1504.2 To hear and decide appeals for variances from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

1504.201 There are extraordinary and exceptional conditions pertaining to the particular piece of property;

1504.202 These conditions do not generally apply to other property in the vicinity;

1504.203 Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;

1504.204 The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance; and,

1504.205 The Board may not grant a variance the effect of which would be to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

1504.3 To authorize the permitting of special exceptions subject to the terms and conditions for such uses as set forth by this Ordinance. The Board of Zoning Appeals may approve, approve with conditions, or deny a request for a special exception permit. Special exception permits may be approved only if the board finds that the proposed use:

1504.301 Is in fact a use specifically listed as a special exception for the zoning district in which the use is intended,

1504.302 Is consistent with the recommendations contained in the City of Georgetown Comprehensive Plan and the character of the underlying zoning district as indicated in the zoning district's intent,

1504.303 Is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community,

1504.304 Adequate provision is made for such items as setbacks, buffering, and screening (including fences and/or landscaping) to protect adjacent properties from the possible adverse influence of the proposed use such as noise, vibration, dust, glare, odor, traffic conditions, and similar factors,

1504.305 When applicable, will be developed in a way that will preserve and incorporate important natural features,

1504.306 Complies with all applicable rules, regulations, laws, and the standards of this chapter, and

1504.307 Will not hinder or endanger vehicular traffic or pedestrian movements on adjacent streets.

In granting a special exception permit, the board may attach to it such conditions regarding the location, character, or other features of the proposed structure or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare; and

1504.4 To remand a matter to the Zoning Administrator, upon motion by a party or the board's own motion, if the board determines that the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board must set a rehearing on the remanded matter without further public notice for a time certain within sixty days unless otherwise agreed by the parties. The board must maintain a list of persons who expressed an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

1504.5 In exercising the above powers, the Board of Zoning Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm wholly or in part, or may modify the order, requirements, decision, or determination of the Zoning Administrator and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt, may certify such fact to the Circuit Court having jurisdiction. All final decisions and orders of the Board must be permanently filed in the office of the Board as a public record. All findings of fact and conclusions of law must be delivered to parties of interest by certified mail.

1505 Appeals from Decisions of the Board of Zoning Appeals

Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal from any decision of the Board to the Circuit Court in and for the County of Georgetown by filing with the Clerk of such Court a petition in writing setting forth plainly, fully and distinctly wherein such decisions is contrary to law. Such appeal shall be filed within thirty days after the decision of the Board is rendered.

Editor's note-(renumbered Article XII, Sections 1200, 1201, 1202, 1203, 1204, 1204.1, 1204.2, 1204.201, 1204.202, 1204.203, 1204.204, 1204.205, 1204.3, and 1205 to new Article XV, Sections 1500, 1501, 1502, 1503, 1504, 1504.1, 1504.2, 1504.201, 1504.202, 1504.202, 1504.203, 1504.204, 1504.205, 1504.3 and 1505, ord. of 4-21-2011). (renumbered Article XV, Sections 1500, 1501, 1502, and 1503 to new Article XIX, Sections 1900, 1901, 1902, and 1903, ord. of 4-21-2011)(amended Section 1504.3 & 1504.4, ord. of 1/1/19) (amended Section 1500, ord. of 12/17/20).